

BILL NO. G-93-11-22 (AS AMENDED)

GENERAL ORDINANCE NO. 0-33-93

AN ORDINANCE AMENDING TITLE IX, CHAPTER  
99, SECTION 99.009 (B), OF THE CITY OF  
FORT WAYNE CODE OF LAWS,

WHEREAS, The public rights-of-way are primarily  
intended to be occupied by transportation facilities, public  
utilities, or other special public uses; and

WHEREAS, The Board of Public Works would like to  
discourage the placement of private facilities within the  
public rights-of-way when possible; and

WHEREAS, The Board of Public Works is occasionally  
requested to allow private facilities not benefiting the  
general public to be located within the public rights-of-way;  
and

WHEREAS, the City's Right-of-Way Department and the  
Board of Public Works have established and adopted a new  
policy and charges for the rental of public rights-of-way for  
purposes not directly benefiting the general public, with  
rates subject to approval by the Common Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 99.009 (B) of Chapter 99,  
Title IX of the City of Fort Wayne, Indiana, Code of  
Ordinances be amended as follows:

§ 99.009 FEES FOR USE OF RIGHTS-OF-WAY

B. Public Rights-of-Way Rental Policy

1. Any individual, company, or organization may request  
permission from the Board of Public Works to place private  
facilities within the public rights-of-way, subject to the  
following fees:

- a. Initial application fee of \$200.00. This fee is to  
reimburse the city for administrative expenses  
necessary for the review and routing of the  
application through the engineering departments and  
is non-refundable regardless of the outcome of the  
application.
- b. Contract preparation fee of \$100.00. This fee is  
to reimburse the city for legal contract  
preparation expenses and will be refunded should  
the final approval not be granted.
- c. An annual rental fee will be assessed that is



dependant on the size of the encroachment, the type of facility to be placed, and the classification of the street right-of-way. Base fees are as follows:

- i. Communication cable, excluding fiber optics cable, \$0.54/l.f.,
- ii. Parking lots or other temporary structures, \$0.54/sq.ft.,
- iii. Underground pipe and duct, \$0.81/sq.ft., computed at a minimum width of 1 ft.,
- iv. Fiber optics cable, \$1.08/l.f.

The base fee is multiplied by a factor of one if the encroaching facility is on a residential street; by a factor of two if on a collector street; and by a factor of three if on an arterial street.

2. The owners of any approved encroachments will be encouraged to join the Indiana Underground Plant Protection Service so as to be aware of any excavations scheduled in the vicinity of their facilities. However, should the applicant not want to join the Indiana Underground Plant Protection Service but desire notification of any work near their facilities, the city - at the city's option - can provide the service for an additional annual fee of \$5,750.00. This fee is to recover the administrative costs inherent in monitoring the Indiana Underground Plant Protection Service on behalf of the encroachment holder.

3. For good and sufficient cause, the city can elect to waive all or part of the annual fee. If any portion of the fee is to be waived, written documentation specifying the reasoning behind such a determination shall be attached to the rental/encroachment agreement.

4. Rental/encroachment applications are to be submitted to the Board of Public Works, in a form as specified by the city. Upon payment of the application fees, the request will be routed to the engineering departments, the Community and Economic Development department, and the Right of Way department in order to solicit staff recommendations and comments pertaining to the possible consequences of approving or denying the request.

5. Staff recommendations will be forwarded to the Legal department for contract preparation. The Legal department will be responsible for negotiating and documenting any deviations from the prescribed fee schedule.

6. A contract or a memorandum prepared by the Legal department detailing the reasons agreement was not obtained will be forwarded to the Board of Public Works for a final determination of approval or denial, with such determination to be made at the regularly scheduled Board of Public Works meeting.

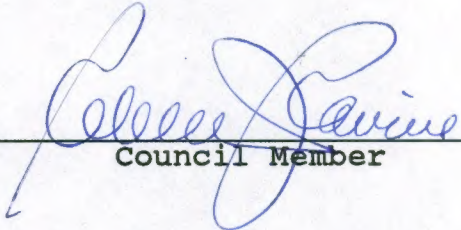
7. Any approved rental/encroachment agreements will be conditional until such time as any and all necessary construction permits are obtained and until such time as the first annual payment is submitted to the city's accounting department. Subsequent annual payments will fall due on the anniversary date of the initial payment. The annual invoicing and the tracking of same will be performed by the accounting department.



8. Any public utility or municipally owned utility as defined by I.C. 8-1-2-1 is excluded from coverage of this policy.

C. The fees established herein shall not in any way limit the ability of the City to charge additional sums for other use of its rights-of-way as referenced herein.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

  
J. TIMOTHY MCCAULAY, CITY ATTORNEY

To: Members of the Common Council, City of Fort Wayne  
From: Rick Orr, Right of Way Department Director  
Subj: Rights-of-way Rental Policy  
Date: November 15, 1993

92-93-11-22

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This document is meant to show the rationale used in developing a policy regarding the rental of public rights-of-way, approved and adopted by resolution by the Board of Public Works on November 10th, 1993. By way of ordinance G-06-88, Council has allowed us to set rules and regulations regarding use of public rights-of-way, subject to subsequent ratification by resolution of the Common Council.

Since the early 1980s, the City has entered into contracts with seven different organizations who wished to utilize public rights-of-ways for private, profit-making purposes. Most of the agreements were reached after a negotiating process conducted by the telecommunications department because most of the requests were for installation of communication systems. Since no fee schedule existed, the rates between agreements seem inconsistent when compared to each other.

This policy is important because it attempts to insure a certain amount of consistency between agreements since any future agreements will be based off of a pricing formula developed from a set of rational, explainable criteria. It will provide a framework for City staff to follow, helping to guarantee that all requests will be handled in a like fashion.

It should be understood that this policy has not been designed as a way for the City to raise revenues through leasing portions of public rights-of-way. It is hoped that these fees and annual charges will provide an incentive for any potential applicants to find another way of accomplishing their objectives without encroaching on public property. Instead of viewing the policy as a method to allow us to "sell" use of our property, it should be seen as a way of compensating the taxpaying public for allowing the private use of public property for private gain. For this reason, a fee over and above our costs can be rationalized since it forces a potential applicant to internalize at least some of the costs associated with using a public good.

Thank you.



**Current Use Agreements in force allowing use of public right of way for private purposes  
as of November 15, 1993**

| agreement<br>between<br>City and | length<br>of<br>encroachment | City to<br>call for<br>work in<br>area? | annual<br>fee | price<br>per foot | location               |
|----------------------------------|------------------------------|---|---------------|-------------------|------------------------|
| Fair Oak Motel                   | 246 l.f.                     | no                                      | \$1,100.00    | \$4.47            | Bluffton Rd            |
| Kelley Chevrolet                 | 55 l.f.                      | no                                      | \$1,100.00    | \$20.00           | E State                |
| Advanced Machine<br>& Tool       | 50 l.f.                      | no                                      | \$1,100.00    | \$22.00           | 6312 Huguenard         |
| Magnavox                         | 680 l.f.                     | yes                                     | \$9,715.50    | \$14.29           | Interstate Ind Park    |
| Parkview                         | 2453 l.f.                    | no                                      | \$6,132.50    | \$2.50            | E State St/Carew       |
| Central Soya                     | 240 l.f.                     | yes                                     | \$6,127.70    | \$25.53           | Harmony Ct             |
| Linc Life                        | 3500 l.f.                    | no                                      | \$12,000.00   | \$3.43            | Clinton/Main/Lafayette |
| Linc Life                        | 1700 l.f.                    | no                                      | \$1,100.00    | \$0.65            | Magnavox Way           |
| Linc Life                        | 6970 l.f.                    | no                                      | \$7,889.00    | \$1.13            | Illinois Rd/Harrison   |

**DIGEST SHEET**

**TITLE OF ORDINANCE** GENERAL ORDINANCE

**DEPARTMENT REQUESTING ORDINANCE** BOARD OF PUBLIC WORKS

**SYNOPSIS OF ORDINANCE** ESTABLISHES A POLICY AND CHARGES FOR  
THE RENTAL OF PUBLIC RIGHTS-OF-WAY FOR PURPOSES NOT DIRECTLY  
BENEFITING THE GENERAL PUBLIC.

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**EFFECT OF PASSAGE** RENTAL RIGHTS-OF-WAY POLICY AND CHARGES ARE  
APPROVED.

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**EFFECT OF NON-PASSAGE** CITY CANNOT CHARGE RENTAL FOR RIGHTS-  
OF-WAY.

\_\_\_\_\_

**MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)** \_\_\_\_\_

\_\_\_\_\_

**ASSIGNED TO COMMITTEE (PRESIDENT)** \_\_\_\_\_



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dependant on the size of the encroachment, the type of facility to be placed, and the classification of the street right-of-way. Base fees are as follows:

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The base fee is multiplied by a factor of one if the encroaching facility is on a residential street; by a factor of two if on a collector street; and by a factor of three if on an arterial street.

2. The owners of any approved encroachments will be encouraged to join the Indiana Underground Plant Protection Service so as to be aware of any excavations scheduled in the vicinity of their facilities. However, should the applicant not want to join the Indiana Underground Plant Protection Service but desire notification of any work near their facilities, the city - at the city's option - can provide the service for an additional annual fee of \$5,750.00. This fee is to recover the administrative costs inherent in monitoring the Indiana Underground Plant Protection Service on behalf of the encroachment holder.

3. For good and sufficient cause, the city can elect to waive all or part of the annual fee. If any portion of the fee is to be waived, written documentation specifying the reasoning behind such a determination shall be attached to the rental/encroachment agreement.

4. Rental/encroachment applications are to be submitted to the Board of Public Works, in a form as specified by the city. Upon payment of the application fees, the request will be routed to the engineering departments, the Community and Economic Development department, and the Right of Way department in order to solicit staff recommendations and comments pertaining to the possible consequences of approving or denying the request.

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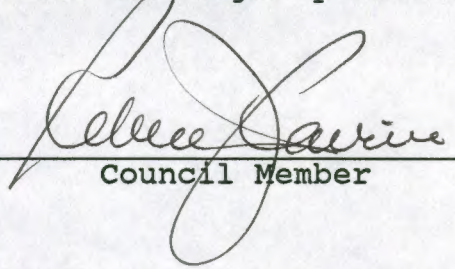
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1 C. The fees established herein shall not in any way limit the  
2 ability of the City to charge additional sums for other use  
3 of its rights-of-way as referenced herein.

4 Section 2. That this Ordinance shall be in full force  
5 and effect from and after its passage, and any and all  
6 necessary approval by the Mayor and due legal publication  
7 thereof.

8   
9 Council Member

10 APPROVED AS TO FORM  
11 AND LEGALITY

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13 J. TIMOTHY MCCAULAY, CITY ATTORNEY  
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A Resolution establishing a policy and charges for the rental of public rights-of-way in the City of Fort Wayne, Indiana.

- WHEREAS, The public rights-of-way are primarily intended to be occupied by transportation facilities, public utilities, or other special public uses; and
- WHEREAS, The Board of Public Works would like to discourage the placement of private facilities within the public rights-of-way when possible; and
- WHEREAS, The Board of Public Works is occasionally requested to allow private facilities not benefiting the general public to be located within the public rights-of-way; and
- WHEREAS, Section 99.009 of the Municipal Code of the City of Fort Wayne, Indiana, authorizes the city to charge sums for use of its rights-of-way; and
- WHEREAS, The Board of Public Works has jurisdiction over all city owned public rights-of-way;
- NOW, THEREFORE, the Board of Public Works of the City of Fort Wayne, Indiana, hereby resolves to establish the following policy and charges for the rental of public rights-of-way for purposes not directly benefiting the general public, with rates subject to approval by the Common Council:

Public Rights-of-Way Rental Policy

1. Any individual, company, or organization may request permission from the Board of Public Works to place private facilities within the public rights-of-way, subject to the following fees:
  - a. Initial application fee of \$200.00. This fee is to reimburse the city for administrative expenses necessary for the review and routing of the application through the engineering departments and is non-refundable regardless of the outcome of the application.
  - b. Contract preparation fee of \$100.00. This fee is to reimburse the city for legal contract preparation expenses and will be refunded should the final approval not be granted.



c. An annual rental fee will be assessed that is dependant on the size of the encroachment, the type of facility to be placed, and the classification of the street right-of-way. Base fees are as follows:

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7. Any approved rental/encroachment agreements will be conditional until such time as any and all necessary construction permits are obtained and until such time as the first annual payment is submitted to the city's accounting department. Subsequent annual payments will fall due on the anniversary date of the initial payment. The annual invoicing and the tracking of same will be performed by the accounting department.

This policy is effective upon passage this 10 day of NOVEMBER, 1993.

BOARD OF PUBLIC WORKS:



Charles E. Layton, Chairman

Katherine Carrier, Member



C. James Owen, Member

ATTEST:



Patricia J. Crick, Clerk



**§ 99.005 POURING GASOLINE UPON PAVEMENT.**

It shall be unlawful for any person to permit gasoline or other substances that will damage street pavement to be discharged, thrown or deposited upon any street pavement that may be injuriously affected thereby.

('74 Code, § 25-15) Penalty, see § 99.999

**§ 99.006 GOODS TO BE RECEIVED OR DELIVERED FROM ALLEY WHERE POSSIBLE.**

It shall be unlawful for any person to receive or deliver by the front entrance to any building occupied by such person, over and across any sidewalk in the city, any goods, wares or merchandise when access can be had to such building from the rear thereof and over and through any paved alley that may be adjacent to the real estate upon which such building is situated.

('74 Code, § 25-13) Penalty, see § 99.999

**§ 99.007 UNAUTHORIZED REMOVAL OF BANNERS AND BARRICADES.**

Hereafter whenever the Board of Public Works of the city shall place or cause to be placed any barrier or barricade in or upon any public street, alley, or sidewalk in the city because of any repairs or improvements to such street, alley, or sidewalk, or because of any excavation made therein for public improvement, it shall be unlawful for any person to remove or destroy such barrier or barricade, or to drive any vehicle upon the street, alley or sidewalk, or walk or run upon the same.

('74 Code, § 25-18) (Ord. 2330, passed - - ) Penalty, see § 99.999

**§ 99.008 ENGAGING IN GAMES OR SPORTS.**

It shall be unlawful for any person to play baseball, polo, tennis or football on the streets or sidewalks of the city, and it shall be unlawful to engage in any other games or sports upon such streets or sidewalks to the annoyance of travelers or residents thereon.

('74 Code, § 25-9) Penalty, see § 99.999

**§ 99.009 FEES FOR USE OF RIGHTS-OF-WAY.**

(A) (1) The fees for use of the city's rights-of-

way shall be as follows:

|  |       |
|--|-------|
| Street cut                                     | \$ 55 |
| Commercial driveway                            | 200   |
| Commercial driveway with<br>auxiliary lanes    | 400   |
| Commercial driveway reconstruction             | 30    |
| Residential driveway                           | 30    |
| Residential driveway reconstruction            | 15    |
| Sidewalk up to 100 lineal feet                 | 15    |
| Sidewalk, each additional 50 lineal feet       | 5     |
| Sidewalk reconstruction                        | 5     |
| Parking lot to 100,000 sq. ft.                 | 50    |
| Parking lot, second 100,000 sq. ft.            | 25    |
| Parking lot, each additional<br>50,000 sq. ft. | 15    |
| Pole line                                      | 15    |
| Oversize/Overweight                            | 25    |
| Access standards manual                        | 2     |
| Barricade                                      | 20    |

(2) Two copies of said fees are available for inspection in the office of the City Clerk.

(B) The fees established herein shall not in any way limit the ability of the city to charge additional sums for other use of its rights-of-way as referenced herein.

('74 Code, § 25-01) (Ord. S-54-85, passed 4-23-85; Am. Ord. R-76-91, passed 12-17-91)

**§ 99.010 PROHIBITING USE OF PUBLIC RIGHT-OF-WAY FOR THE PURPOSE OF SELLING GOODS AND SOLICITATIONS.**

(A) No street, sidewalk, space between the sidewalk and curbing (commonly known as "parkstrip"), curbing, or the commonly travelled portion of any street in the city, including any median (the portion of a divided highway separating the travelled ways for traffic in opposite directions), shall be utilized by any person for the purpose of sale or distribution without charge of any goods or materials, and/or the solicitation of donations for charitable purposes from the drivers or occupants of any motor vehicle.

(B) For the purposes of this section **SALE** or **DISTRIBUTION** shall mean the physical exchange of goods or materials with or without remuneration.

(C) Nothing in this section shall prohibit the sale or distribution without charge to, and/or the solicitation of donations for charitable purposes from persons

other than the drivers or occupants of motor vehicles, which persons are not on the travelled portion of any street or median in the city.

(D) The prohibitions of this section shall only apply to major arterial streets as that classification is utilized in the Office of Traffic Engineering of the city. (Ord. G-20-91, passed 7-9-91) Penalty, see 99.99

### **OBSTRUCTIONS AND ENCROACHMENTS**

#### **§ 99.020 OBSTRUCTING FREE PASSAGE UPON STREETS AND SIDEWALKS.**

(A) It shall be unlawful for any person to obstruct the free passage along and upon any street, sidewalk, space between sidewalk and curbing, or commonly traveled portion of a street or other public place, and to place or permit to be placed upon such street, sidewalk, space between sidewalk and curbing, or commonly traveled portion of a street or any other public place, any thing or object whatsoever so as to obstruct or block the use thereof, or so to endanger the life or limb, or property of other using such passage.

(B) The city by and through its Board of Public Safety, may grant a permit to exempt any person or organization from the prohibitions set out in the preceding paragraph.

(C) The city by and through its Board of Public Safety, shall enact rules and regulations governing the use of its rights-of-way by those persons or organizations granted a permit pursuant to paragraph (B) of this section. The rules and regulations may include:

(1) The price of the permit.

(2) Limitation on the size, location and duration of any structure placed on the city's rights-of-way.

(3) A requirement that the permittee indemnify the city against any loss arising out of the use of the permit.

(4) Any other matter affecting the public health, safety and welfare.

(D) The rules and regulations enacted by the Board of Public Safety shall be subject to subsequent ratification by resolution of the Common Council.

('74 Code, § 25-1) (Ord. G-06-88, passed 4-12-88) Penalty, see § 99.999

#### **§ 99.021 OBSTRUCTION OR USE OF STREETS AND SIDEWALKS IN WRECKING OR RAZING BUILDINGS.**

It shall be unlawful for any person to wreck, raze or tear down any barn, house, building or other structure upon any premises within the city, when by such wrecking, razing and tearing down, any portion of a street, sidewalk or other public space is used, blocked or obstructed in any manner, or where such building, house, barn or other structure is within 15 feet of any such street, sidewalk or other public place, unless such person shall have paid a permit fee of \$1 and received a permit to do so from the building department of the city and shall have posted with the city controller a bond with surety approved by the controller in the principal sum of \$2,000 payable to the city and indemnifying and holding harmless the city from any damage or loss by reason of a consequence of such wrecking, razing or tearing down. The term "building" herein shall mean any partially constructed building, remains or ruins of a partially destroyed barn, house, building or other structure.

('74 Code, § 25-2) Penalty, see § 99.999

#### **§ 99.022 CORNER VISIBILITY SIGHT RESTRICTIONS.**

(A) No fence, wall, hedge or other planting or other obstruction to vision, extending in excess of three feet above or hanging lower than eight feet above the established street center line grade shall be erected, planted or maintained in the areas described below, provided that this restriction shall not apply to buildings in the B-3A district:

(1) A corner lot (The area bounded by the edges of intersecting roadways and a line intersecting such edge lines at points 40 feet distant from the intersection of the edge or roadway lines extended on their bearing before any deflection for the intersection).

(2) A lot at the intersection of an alley (The area bounded by the edge of the roadway and the edge of the intersecting alley and a line intersecting such edge lines at points 90 feet distant on the roadway and 15 feet distant on the alley from the intersection of such edge lines extended on their



BILL NO. G-93-11-22 (AS AMENDED)

REPORT OF THE COMMITTEE ON  
REGULATIONS

DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS  
LUNSEY, SCHMIDT

WE, YOUR COMMITTEE ON \_\_\_\_\_ REGULATIONS \_\_\_\_\_ TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) \_\_\_\_\_ AMENDING TITLE IX,  
CHAPTER 99, section 99.009 (B), OF THE CITY OF FORT WAYNE CODE  
OF LAWS,  
\_\_\_\_\_  
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HAVE HAD SAID (ORDINANCE) (RESOLUTION) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (RESOLUTION) \_\_\_\_\_

DO PASS

DO NOT PASS

ABSTAIN

NO REC

*Rebecca Ravine*

*David Long*

*Gregory*

*Julie*

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DATED: 12-14-93

Sandra E. Kennedy  
City Clerk

Read the first time in full and on motion by Ravine, seconded by Long, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 11-23-93

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Long, seconded by Long, and duly adopted, placed on its passage. PASSED ~~lost~~ by the following vote:

|             | <u>AYES</u> | <u>NAYS</u> | <u>ABSTAINED</u> | <u>ABSENT</u> |
|-------------|-------------|-------------|------------------|---------------|
| TOTAL VOTES | <u>9</u>    |             |                  |               |
| BRADBURY    | <u>✓</u>    |             |                  |               |
| EDMONDS     | <u>✓</u>    |             |                  |               |
| GiaQUINTA   | <u>✓</u>    |             |                  |               |
| HENRY       | <u>✓</u>    |             |                  |               |
| LONG        | <u>✓</u>    |             |                  |               |
| LUNSEY      | <u>✓</u>    |             |                  |               |
| RAVINE      | <u>✓</u>    |             |                  |               |
| SCHMIDT     | <u>✓</u>    |             |                  |               |
| TALARICO    | <u>✓</u>    |             |                  |               |

DATED: 12-14-93

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. D-33-93 on the 14th day of December, 1993

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Mark C. GiaQuinta  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1993, at the hour of 2:00 o'clock P, M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 16th day of December, 1993, at the hour of 11:15 o'clock P M., E.S.T.

Paul Helmke  
PAUL HELMKE, MAYOR





## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

December 21, 1993

Ms. Connie Lambert  
Fort Wayne Newspapers, Inc.  
600 West Main Street  
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the date of December 27, 1993, and January 3, 1994, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council  
of Fort Wayne, IN

Bill No. G-93-11-22 (as amended)  
General Ordinance No. G-33-93  
Right-of-Way

Please send us 3 copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy  
City Clerk

SEK/ne  
ENCL: 1

LEGAL NOTICE

Notice is hereby given that on the 14th day of  
December, 19 93, the Common Council of the City  
of Fort Wayne, Indiana, in a Regular Session did pass  
the following Bill No. G-93-11-22 (as amended) General  
Ordinance No. G-33-93 to-wit:

**BILL NO. G-93-11-22 (AS AMENDED)**

**GENERAL ORDINANCE NO. 33-93**

**AN ORDINANCE AMENDING TITLE IX, CHAPTER  
99, SECTION 99.009 (B), OF THE CITY OF  
FORT WAYNE CODE OF LAWS,**

WHEREAS, The public rights-of-way are primarily  
intended to be occupied by transportation facilities, public  
utilities, or other special public uses; and

WHEREAS, The Board of Public Works would like to  
discourage the placement of private facilities within the  
public rights-of-way when possible; and

WHEREAS, The Board of Public Works is occasionally  
requested to allow private facilities not benefiting the  
general public to be located within the public rights-of-way;  
and

WHEREAS, the City's Right-of-Way Department and the  
Board of Public Works have established and adopted a new  
policy and charges for the rental of public rights-of-way for  
purposes not directly benefiting the general public, with  
rates subject to approval by the Common Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL  
OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 99.009 (B) of Chapter 99,  
Title IX of the City of Fort Wayne, Indiana, Code of  
Ordinances be amended as follows:

**§ 99.009 FEES FOR USE OF RIGHTS-OF-WAY**

**B. Public Rights-of-Way Rental Policy**

1. Any individual, company, or organization may request  
permission from the Board of Public Works to place private  
facilities within the public rights-of-way, subject to the  
following fees:

a. Initial application fee of \$200.00. This fee is to  
reimburse the city for administrative expenses  
necessary for the review and routing of the  
application through the engineering departments and  
is non-refundable regardless of the outcome of the  
application.

b. Contract preparation fee of \$100.00. This fee is  
to reimburse the city for legal contract  
preparation expenses and will be refunded should  
the final approval not be granted.

c. An annual rental fee will be assessed that is



dependant on the size of the encroachment, the type of facility to be placed, and the classification of the street right-of-way. Base fees are as follows:

- i. Communication cable, excluding fiber optics cable, \$0.54/l.f.,
- ii. Parking lots or other temporary structures, \$0.54/sq.ft.,
- iii. Underground pipe and duct, \$0.81/sq.ft., computed at a minimum width of 1 ft.,
- iv. Fiber optics cable, \$1.08/l.f.

The base fee is multiplied by a factor of one if the encroaching facility is on a residential street; by a factor of two if on a collector street; and by a factor of three if on an arterial street.

2. The owners of any approved encroachments will be encouraged to join the Indiana Underground Plant Protection Service so as to be aware of any excavations scheduled in the vicinity of their facilities. However, should the applicant not want to join the Indiana Underground Plant Protection Service but desire notification of any work near their facilities, the city - at the city's option - can provide the service for an additional annual fee of \$5,750.00. This fee is to recover the administrative costs inherent in monitoring the Indiana Underground Plant Protection Service on behalf of the encroachment holder.

3. For good and sufficient cause, the city can elect to waive all or part of the annual fee. If any portion of the fee is to be waived, written documentation specifying the reasoning behind such a determination shall be attached to the rental/encroachment agreement.

4. Rental/encroachment applications are to be submitted to the Board of Public Works, in a form as specified by the city. Upon payment of the application fees, the request will be routed to the engineering departments, the Community and Economic Development department, and the Right of Way department in order to solicit staff recommendations and comments pertaining to the possible consequences of approving or denying the request.

5. Staff recommendations will be forwarded to the Legal department for contract preparation. The Legal department will be responsible for negotiating and documenting any deviations from the prescribed fee schedule.

6. A contract or a memorandum prepared by the Legal department detailing the reasons agreement was not obtained will be forwarded to the Board of Public Works for a final determination of approval or denial, with such determination to be made at the regularly scheduled Board of Public Works meeting.

7. Any approved rental/encroachment agreements will be conditional until such time as any and all necessary construction permits are obtained and until such time as the first annual payment is submitted to the city's accounting department. Subsequent annual payments will fall due on the anniversary date of the initial payment. The annual invoicing and the tracking of same will be performed by the accounting department.

1 8. Any public utility or municipally owned utility as defined  
2 by I.C. 8-1-2-1 is excluded from coverage of this policy.

3 C. The fees established herein shall not in any way limit the  
4 ability of the City to charge additional sums for other use  
5 of its rights-of-way as referenced herein.

6 Section 2. That this Ordinance shall be in full force  
7 and effect from and after its passage, and any and all  
8 necessary approval by the Mayor and due legal publication  
9 thereof.

REBECCA J. RAVINE

Council Member

Read the third time in full and on motion by Long, and duly adopted, placed  
on its passage. PASSED by the following vote:

AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long,  
Lunsey, Ravine, Schmidt, Talarico  
NAYS: None  
ABSTAINED: None  
ABSENT: None

DATED: 12-14-93

Sandra E. Kennedy  
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana,  
as General Ordinance No. G-33-93 on the 14th day of December, 1993.

ATTEST:

SEAL

Sandra E. Kennedy  
City Clerk

Mark E. GiaQuinta  
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the  
15th day of December, 1993, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy  
City Clerk

Approved and signed by me this 16th day of December, 1993, at the hour  
of 11:15 o'clock P.M., E.S.T.

Paul Helmke  
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify  
that the above and foregoing is a full, true and complete copy of  
G-33-93

General Ordinance No. \_\_\_\_\_,  
passed by the Common Council on the \_\_\_\_\_ 14th \_\_\_\_\_ day of  
December, 19 93, and that said Ordinance was  
duly signed and approved by the Mayor on the \_\_\_\_\_ 16th \_\_\_\_\_ day of  
December, 19 93, and now remains on file and  
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne,  
Indiana, this \_\_\_\_\_ 16th \_\_\_\_\_ day of \_\_\_\_\_ December, 19 93.

SEAL

*Sandra E. Kennedy*  
SANDRA E. KENNEDY, CITY CLERK



Notice is hereby given that on the 14th day of December, 1993, the Common Council of the City of Fort Wayne, Indiana, in regular Session did pass the following Bill No. G-93-11-22 (as amended) General Ordinance No. G-33-93 to-wit:

**BILL NO. G-93-11-22 (AS AMENDED)**

**GENERAL ORDINANCE NO. G-33-93**

**AN ORDINANCE AMENDING TITLE IX, CHAPTER 99, SECTION 99.009 (B), OF THE CITY OF FORT WAYNE CODE OF LAWS.**

WHEREAS, The public rights-of-way are primarily intended to be occupied by transportation facilities, public utilities, or other special public uses and

WHEREAS, The Board of Public Works would like to discourage the placement of private facilities within the public rights-of-way when possible; and

WHEREAS, The Board of Public Works is occasionally requested to allow private facilities not benefiting the general public to be located within the public rights-of-way; and

WHEREAS, the City's Right-of-Way Department and the Board of Public Works have established and adopted a new policy and charges for the rental of public rights-of-way for purposes not directly benefiting the general public, with rates subject to approval by the Common Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 99.009 (B) of Chapter 99, Title IX of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

Sub section 99.009 FEES FOR USE OF RIGHTS-OF-WAY

B. Public Rights-of-Way Rental Policy

1. Any individual, company, or organization may request permission from the Board of Public Works to place private facilities within the public rights-of-way, subject to the following fees:

a. Initial application fee of \$200.00. This fee is to reimburse the city for administrative expenses necessary for the review and routing of the application through the engineering departments and is non-refundable regardless of the outcome of the application.

b. Contract preparation fee of \$100.00. This fee is to reimburse the city for legal contract preparation expenses and will be refunded should the final approval not be granted.

c. An annual rental fee will be assessed that is dependant on the size of the encroachment, the type of facility to be placed, and the classification of the street right-of-way. Base fees are as follows:

i. Communication cable, excluding fiber optics cable, \$0.54/l.f.,

ii. Parking lots or other temporary structures, \$0.54/sq.ft.,

iii. Underground pipe and duct, \$0.81/sq.ft., computed at a minimum width of 1 ft.,

iv. Fiber optics cable, \$1.08/l.f.

The base fee is multiplied by a factor of one if the encroaching facility is on a residential street; by a factor of two if on a collector street; and by a factor of three if on an arterial street.

2. The owners of any approved encroachments will be encouraged to join the Indiana Underground Plant Protection Service so as to be aware of any excavations scheduled in the vicinity of their facilities. However, should the applicant not want to join the Indiana Underground Plant Protection Service but desire notification of any work near their facilities, the city - at the city's option - can provide the service for an additional annual fee of \$5,750.00. This fee is to recover the administrative costs inherent in monitoring the Indiana Underground Plant Protection Service on behalf of the encroachment holder.

3. For good and sufficient cause, the city can elect to waive all or part of the annual fee. If any portion of the fee is to be waived, written documentation specifying the reasoning behind such a determination shall be attached to the rental/encroachment agreement.

4. Rental/encroachment applications are to be submitted to the Board of Public Works, in a form as specified by the city. Upon payment of the application fees, the request will be routed to the engineering departments, the Community and Economic Development department, and the Right of Way department in order to solicit staff recommendations and comments pertaining to the possible consequences of approving or denying the request.

5. Staff recommendations will be forwarded to the Legal department for contract preparation. The Legal department will be responsible for negotiating and documenting any deviations from the prescribed fee schedule.

6. A contract or a memorandum prepared by the Legal department detailing the reasons agreement was not obtained will be forwarded to the Board of Public Works for a final determination of approval or denial, with such determination to be made at the regularly scheduled Board of Public Works meeting.

7. Any approved rental/encroachment agreements will be conditional until such time as any and all necessary construction permits are obtained and until such time as the first annual payment is submitted to the city's accounting department. Subsequent annual payments will fall due on the anniversary date of the initial payment. The annual invoicing and the tracking of same will be performed by the accounting department.

8. Any public utility or municipally owned utility as defined by I.C. 8-1-2-1 is excluded from coverage of this policy.

C. The fees established herein shall not in any way limit the ability of the City to charge additional sums for other use of its rights-of-way as referenced herein.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

REBECCA J. RAVINE  
COUNCIL MEMBER

Read the third time in full and on motion by Long, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long  
Lunsey, Ravine, Schmidt, Talarico  
NAYS: None  
ABSTAINED: None  
ABSENT: None  
DATED: 12-14-93

Sandra E. Kennedy  
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-33-93 on the 14th day of December, 1993.

ATTEST:

Sandra E. Kennedy  
City Clerk

Mark E. GiaQuinta  
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1993, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy  
City Clerk

Approved and signed by me this 16th day of December, 1993, at the hour of 11:15 o'clock P.M., E.S.T.

Paul Helmke  
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-33-93 passed by the Common Council on the 14th day of December, 1993, and that said Ordinance was duly signed and approve by the Mayor on the 16th day of December, 1993, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 16th day of December, 1993.

SANDRA E. KENNEDY  
#174

12-27/1--3

d of Accounts

General Form No. 99P (Revised 1987)

i 1  
t)

To: The Journal-Gazette Dr.  
P.O. Box 100  
Fort Wayne, IN

ounty, Indiana

PUBLISHER'S CLAIM

ceed two actual lines, neither of which shall total  
type in which the body of the advertisement is set)

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ES

olumns wide equals 162 equivalent lines

\$ 80.19

containing rule or tabular work

ublication (\$1.00 for each proof in excess of two)

1.00

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\$ 81.19

ST

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nd penalties of Chapter 155, Acts 1953,

egoing account is just and correct, that the amount  
r allowing all just credits, and that no part of the

, 19 94

Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana )

) ss:

Allen County )

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 12/27/93 1/3/94, the dates of publication being as follows:

Subscribed and sworn to before me this 3rd day of jan, 19 94.

My commission expires:

Mary L Adkison  
Notary Public  
MARY L ADKISON  
NOTARY PUBLIC STATE OF INDIANA  
ALLEN COUNTY  
MY COMMISSION EXP JUNE 14, 1997



Fw Common Council  
(Governmental Unit)

To: The Journal-Gazette Dr.  
P.O. Box 100  
Fort Wayne, IN

ALLEN County, Indiana

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)  
-- number of equivalent lines  
Head -- number of lines  
Body -- number of lines  
Tail -- number of lines  
Total number of lines in notice

COMPUTATION OF CHARGES

162 lines, 1 columns wide equals 162 equivalent lines  
at .495 cents per line \$ 80.19  
Additional charge for notices containing rule or tabular work (50 percent of above amount)  
Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 1.00  
TOTAL AMOUNT OF CLAIM \$ 81.19

DATA FOR COMPUTING COST

Width of single column 12.5 ems  
Number of insertions 2  
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: Jan 3, 19 94 Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana )  
( ss:  
Allen County )

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

12/27/93 1/3/94

Subscribed and sworn to before me this 3rd day of jan, 19 94.

MARY L ADKISON  
Notary Public  
NOTARY PUBLIC STATE OF INDIANA  
ALLEN COUNTY  
MY COMMISSION EXP JUNE 14, 1997

commission expires:

10 to 14 Days (Best Buy!) \$ .80  
7, 8 & 9 Days \$ .90  
4, 5 & 6 Days \$1.02  
3 Days \$1.12  
1 & 2 Days \$1.29  
Sunday Only \$1.53

Voice Resume  
Voice Resume is a convenient, easy to use service available 24 hours a day, 7 days a week. This service allows businesses the opportunity to pre-screen interested job applicants quickly, hire faster, and free-up office phones for business. For more information please contact your Account Executive or call 219/461-8211.  
\$5 Voice Resume/\$5 Voice Resume Plus  
To hear a demonstration, call 424-0012 and enter ext. 3200 (reader) or ext. 3201 (advertiser).



...ice is hereby given that on the 14th day of December, 1993, the Common Council of the City of Fort Wayne, Indiana, in regular Session did pass the following Bill No. G-93-11-22 (as amended) General Ordinance No. G-33-93 to-wit:

GENERAL ORDINANCE NO. G-33-93  
ORDINANCE AMENDING TITLE IX, CHAPTER 99, SECTION 99.009 (B), OF THE CITY OF FORT WAYNE CODE OF LAWS,

HEREAS, The public rights-of-way are primarily intended to be occupied by transportation facilities, public utilities, or other special public uses and

HEREAS, The Board of Public Works would like to scourage the placement of private facilities within a public rights-of-way when possible; and

HEREAS, The Board of Public Works is occasionally requested to allow private facilities not benefiting the general public to be located within the public rights-of-way; and

HEREAS, the City's Right-of-Way Department and the Board of Public Works have established and adopted a new policy and charges for the rental of public rights-of-way for purposes not directly benefiting the general public, with rates subject to approval by the Common Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

Section 1. That Section 99.009 (B) of Chapter 99, Title IX of the City of Fort Wayne, Indiana, Code of Ordinances be amended as follows:

Subsection 99.009 FEES FOR USE OF RIGHTS-OF-WAY

Public Rights-of-Way Rental Policy

Any individual, company, or organization may request permission from the Board of Public Works to place private facilities within the public rights-of-way, subject to the following fees:

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Communication cable, excluding fiber optics cable, 0.54/l.f.

Parking lots or other temporary structures, 0.54/sq.ft.

Underground pipe and duct, \$0.81/sq.ft., computed at a minimum width of 1 ft.

Fiber optics cable, \$1.08/l.f.

The base fee is multiplied by a factor of one if the encroaching facility is on a residential street; by a factor of two if on a collector street; and by a factor of three if on an arterial street.

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For good and sufficient cause, the city can elect to waive all or part of the annual fee. If any portion of the fee is to be waived, written documentation specifying the reasoning behind such a determination shall be attached to the rental/encroachment agreement.

Rental/encroachment applications are to be submitted to the Board of Public Works, in a form as specified by the city. Upon payment of the application fees, the request will be routed to the engineering departments, the Community and Economic Development department, and the Right of Way department in order to solicit staff recommendations and comments pertaining to the possible consequences of approving or denying the request.

Staff recommendations will be forwarded to the Legal department for contract preparation. The Legal department will be responsible for negotiating and documenting any deviations from the prescribed fee schedule.

A contract or a memorandum prepared by the Legal department detailing the reasons agreement was not obtained will be forwarded to the Board of Public Works for a final determination of approval or denial, with such determination to be made at the regularly scheduled Board of Public Works meeting.

Any approved rental/encroachment agreements will be conditional until such time as any and all necessary construction permits are obtained and until such time as the first annual payment is submitted to the city's accounting department. Subsequent annual payments will fall due on the anniversary date of the initial payment. The annual invoicing and the tracking of same will be performed by the accounting department.

Any public utility or municipally owned utility as defined by I.C. 8-1-2-1 is excluded from coverage of this policy.

The fees established herein shall not in any way limit the ability of the City to charge additional sums for other use of its rights-of-way as referenced herein.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, and any and all necessary approval by the Mayor and due legal publication thereof.

REBECCA J. RAVINE  
COUNCIL MEMBER

Read the third time in full and on motion by Long, and duly adopted, placed on its passage. PASSED by the following vote:

AYES: Nine  
Bradbury, Edmonds, GiaQuinta, Henry, Long  
Lunsey, Ravine, Schmidt, Talarico  
NAYS: None  
ABSTAINED: None  
ABSENT: None  
DATED: 12-14-93

Sandra E. Kennedy  
City Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-33-93 on the 14th day of December, 1993.

ATTEST:

Sandra E. Kennedy  
City Clerk

Mark E. GiaQuinta  
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of December, 1993, at the hour of 2:00 o'clock P.M., E.S.T.

Sandra E. Kennedy  
City Clerk

Approved and signed by me this 16th day of December, 1993, at the hour of 11:15 o'clock P.M., E.S.T.

Paul Helmke  
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-33-93 passed by the Common Council on the 14th day of December, 1993, and that said Ordinance was duly signed and approve by the Mayor on the 16th day of December, 1993, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 16th day of December, 1993.

SANDRA E. KENNEDY  
#174

12-27/1-3

Board of Accounts

1  
Unit)  
County, Indiana

General Form No. 99P (Revised 1987)

To: The News-Sentinel Dr.  
P.O. Box 100  
Fort Wayne, IN

PUBLISHER'S CLAIM

exceed two actual lines, neither of which shall total  
of type in which the body of the advertisement is set)  
nes

notice

AGES

columns wide equals 162 equivalent lines

\$ 80.19

ices containing rule or tabular work  
int)

publication (\$1.00 for each proof in excess of two)

1.00

CLAIM

\$ 81.19

OST

2.5 ems

2

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regarding account is just and correct, that the amount  
or allowing all just credits, and that no part of the

Cindy Gillenwater  
Clerk

, 19 94

Title:

PUBLISHER'S AFFIDAVIT

State of Indiana )

) ss:

Allen County )

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter

attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

12/27/93 1/3/94

Cindy Gillenwater

Subscribed and sworn to before me this 3rd day of Jan, 19 94.

Mary L Adkison  
Notary Public

MARY L ADKISON  
NOTARY PUBLIC STATE OF INDIANA  
ALLEN COUNTY  
MY COMMISSION EXP JUNE 14, 1997

My commission expires:



FW Common Council

(Governmental Unit)

ALLEN

County, Indiana

To: The News-Sentinel Dr.

P.O. Box 100

Fort Wayne, IN

## PUBLISHER'S CLAIM

## LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)  
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

## COMPUTATION OF CHARGES

162 lines, 1 columns wide equals 162 equivalent lines  
at .495 cents per line

\$ 80.19

Additional charge for notices containing rule or tabular work  
(50 percent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

1.00

TOTAL AMOUNT OF CLAIM

\$ 81.19

## DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 2

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: Jan 3, 19 94

Title: Clerk

## PUBLISHER'S AFFIDAVIT

State of Indiana )

) ss:

Allen County )

Personally appeared before me, a notary public in and for said county and state, the undersigned Cindy Gillenwater who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

12/27/93 1/3/94

Subscribed and sworn to before me this 3rd day of Jan, 19 94.

Notary Public

MARY L ADKISON

NOTARY PUBLIC STATE OF INDIANA  
ALLEN COUNTY

My commission expires:

MY COMMISSION EXP JUNE 14, 1997